IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

THURSDAY, THE TWENTY FIRST DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MRS JUSTICE T.MEENA KUMARI

&
THE HON'BLE MR JUSTICE L.NARASIMHA REDDY

WRIT APPEAL NO : 849 of 2005

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 08/11/2004 in WVMP No.2770 of 2004 and WPMP No.4737 of 2004 in WP NO : 3596 OF 2004 on the file of the High Court.)

Between:

1 K.Venkatamma W/o.Chennaiah, LIG-122, Aniana Mukkala Prakasam District

..... APPELLANT

AND

1. The Project Officer, I.T.D.A.(PTG), Srisailam Project, Kurnool.

2 The Principal, A.P. Residential Schools, Srisailam Project, Kurnool District.
3 The Industrial Tribunal cum Labour Court, represented by its Presiding Officer, Anantapur.

.....RESPONDENTS

Counsel for the Appellant:MR.G.RAVI MOHAN

Counsel for the Respondents: GP FOR SOCIAL WELFARE

The Court made the following :

JUDGMENT: (per Hon'ble Smt. Justice T. Meena Kumari)

This writ appeal is filed by the appellant aggrieved by the order in W.V.M.P.No.2770 of 2004 in W.P.M.P.No.4737 of 2004 in WP No.3596 of 2004, dated 18.11.2004, under which the learned Single Judge dismissed the said WVMP.

The appellant herein is the workwoman/1st respondent and the 1st respondent is the writ petitioner and respondents 2 and 3 are the respondents in the main writ petition.

The writ petition was filed by the 1st respondent herein seeking a direction in the nature of writ of certiorari, to quash the order passed by the Tribunal in I.D.No.17 of 2001, dated 20.3.2003. Along with the writ petition, the 1st respondent herein also filed W.P.MP No.4737 of 2004 and obtained an order of interim suspension, on 15.7.2004. Aggrieved by the same, the appellant herein filed WVMP No2770 of 2004 seeking to vacate the interim order dated 15.7.2004. The learned Single Judge dismissed the said application. Aggrieved by the same, the appellant-workwoman preferred this appeal.

Heard the learned Counsel on either side.

The learned Counsel for the appellant contends that the appellant is entitled to the benefits provided under Section 17-B of the Industrial Disputes Act and that the learned Single Judge wrongly observed that the order of dismissal of O.A.No.7261 of 2003 for default of the appellant herein operates as res judicata to the subsequent proceedings and therefore, the order impugned is liable to be set aside.

On the other hand, the learned Government Pleader contends that the termination order made in December 1995, which was questioned by the 1st respondent in I.D.No.17 of 2001, was set aside whereas the termination order dated 1.12.1993, which was questioned in O.A.No.7261 of 2003, was not set aside and therefore, the 1st respondent is not entitled to seek vacation of interim suspension granted by the learned Single Judge and the appeal is liable to be dismissed.

On a perusal of the record, it is apparent that the appellant raised a dispute before the 3rd respondent-Labour Court questioning the termination order made in December, 1995 and the 3rd respondent set aside the termination order and directed the 1st respondent herein to reinstate the appellant with half of the back wages. Aggrieved by the same, the 1st respondent filed the writ petition W.P.No.3596 of 2004 seeking a direction to quash the award passed by the Labour Court in I.D.No.17 of 2001 and obtained interim suspension of the award. Thereupon, the appellant filed WVMP No.2770 of 2004 seeking to vacate the order of interim suspension and the same was dismissed by the learned Single Judge of this Court

having observed that on an earlier occasion, the appellant filed O.A.No.7261 of 2003 questioning the termination order dated 1.12.1993 and the same was dismissed for non-prosecution and the said order operates as res judicata to the subsequent proceedings and hence, the appellant is not entitled to seek vacation of interim suspension, dismissed the application.

Since this writ appeal is preferred against an interlocutory order in the main writ petition, the question as to whether the earlier proceedings operates as res judicata and whether the appellant is entitled to be reinstated into service are the matters to be decided in the writ petition. Keeping in view the background of the matter and as the writ petition is pending before the learned Single Judge, without expressing any opinion on the merits of the case, We feel it just and proper to modify the order of the learned Single Judge dated 15.7.2004 to the effect that there shall be interim stay subject to the 1st respondent complying with the provisions of Section 17-B of the Industrial Disputes Act.

Subject to the above modification, this writ appeal is disposed of and WPMP No.4737 of 2004 and WVMP No.2770 of 2004 are accordingly disposed of. No order as to costs.

Post the Writ Petition for final hearing in the month of August, 2005.

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Justice T. Meena Kumari

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Justice L. Narasimha Reddy

Dated: 21st April, 2005

Nn/Gurc.

Copies to:

1. The Project Officer, I.T.D.A.(PTG), Srisailam Project, Kurnool.

2 The Principal, A.P. Residential Schools, Srisailam Project, Kurnool District.
3 The Presiding Officer, Industrial Tribunal cum Labour Court, Anantapur.

4. Two C.Cs to the G.P. for Social Welfare, High Court of A.P., Hyderabad (O.U.T.)

5. Two C.D. copies.